

The American Waterways Operators



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DEPARTMENT OF TRANSPORTATION
Jennifer A. Kelly
Vice President—Government Affairs

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DOCKET SECTION

November 3, 1998

Docket Management Facility
Department of Transportation
400 Seventh Street, S.W., Room PL-401
Washington, D.C. 20590-0001

Re: Numbering of Undocumented Barges
(USCG- 1998-3798)-6

Dear Sir or Madam:

The American Waterways Operators (AWO) is the national trade association representing the inland and coastal tugboat, towboat, and barge industry. AWO's members include the owners and operators of the vast majority of the undocumented inland tank and dry cargo barges that will be affected by the Coast Guard's establishment of a barge numbering system pursuant to the Abandoned Barge Act of 1992. We appreciate the opportunity to comment at this early stage of the rulemaking process.

As we have stated in previous comments to this docket (see AWO comments of January 11, 1995), AWO shares Congress's objective of ensuring that abandoned barges do not become safety or pollution hazards on the waterways. We are, however, skeptical of the extent to which the establishment of a numbering system for undocumented barges will yield tangible environmental benefits. Most undocumented inland tank and dry cargo barges today are owned by well-established companies who are committed to the marine transportation business and are extremely unlikely to abandon a barge intentionally. The civil and criminal liability risks of abandoning a barge containing oil or hazardous substances or using an abandoned barge to dispose of pollutants are another powerful deterrent to such action. As a result, the problem that the Abandoned Barge Act of 1992 was intended to solve is much less significant than it was in the late 1980s and early 1990s, diminishing the potential environmental benefits of the required numbering system. At the same time, there are other means available to the Coast Guard to identify and trace the ownership of barges that are abandoned, whether intentionally or unintentionally. These include use of the Corps of Engineers' Waterborne Commerce Statistics database, which can be used to match the characteristics of an abandoned barge with the ownership information contained in the Corps' vessel database. We therefore see minimal value-added in the establishment of a numbering system for undocumented barges.

Given that, we urge the Coast Guard to implement the numbering system required by law in a manner that minimizes administrative and economic burdens on the barge industry and on the Coast Guard. We also encourage the Coast Guard to construct the numbering system in a way that will allow barge owners to take advantage of the primary material benefit which may result from the establishment of a Coast Guard-administered numbering system: the ability to obtain a preferred mortgage on an undocumented barge. As previously recommended by both AWO and the congressionally authorized Towing Safety Advisory Committee (see TSAC report of November 19, 1994), we urge the Coast Guard to establish a single-source document (perhaps labeled a Barge Registration certificate) on which lending institutions can record liens so that barge mortgages can be perfected. Constructing the required numbering system so as to allow for the titling of undocumented barges and recordation of liens would not impose significantly greater administrative burdens on the Coast Guard, but would allow the barge industry to derive material benefit from a regulatory system that is unlikely to prove cost-effective in achieving the principal purpose for which it was intended.

Our specific recommendations for the establishment of a barge numbering system echo our previous comments and those of TSAC. We reiterate them briefly here:

- **Administering agency:** Both AWO and TSAC had argued strongly that the Coast Guard, and not the states, should be the administering authority for any undocumented barge numbering system. We are pleased that the Coast Guard also recognizes that it is the entity best suited to assume this responsibility.
- **Treatment of once-documented barges and inspected undocumented barges:** Many barge owners' fleets include a mix of documented barges, once-documented barges, and barges that have never been documented but are inspected by the Coast Guard. In the interest of minimizing burdens on both the Coast Guard and these vessel owners, we urge the Coast Guard not to require that these barges be re-numbered under the new system. **Once-**documented barges should be permitted to retain the Official Number originally assigned to them by the Coast Guard, even if the barge is currently undocumented. For inspected barges that have never been documented, the Coast Guard should use the CG Number assigned to these barges at the time of their initial inspection for certification.
- **Marking of undocumented barges:** AWO agrees with the Coast Guard's proposal that undocumented barges be assigned numbers similar to those used for documented vessels. However, we believe this similarity should also extend to the manner in which undocumented barges are required to be marked. There is no requirement that documented barges be marked externally with the vessel's Official Number, and we see no reason to subject undocumented barges to a different marking requirement (such as external welding, painting, etc.). We reiterate our previous recommendation, supported by TSAC, that undocumented barges be marked in the same manner prescribed by regulation for documented barges. We recommend that barge owners be given up to two years – or, for tank barges, until the next scheduled Coast Guard inspection at which a gas free certificate is required – to affix a permanent marking of the barge number on the interior of the vessel.

- **User fees:** Both AWO and TSAC have previously expressed opposition to the assessment of user fees for the initial numbering of an undocumented barge, given that the proposed numbering system is a legislative mandate and not a service to the barge owner. Fees charged for lien recordation, replacement of a registration certificate, etc., should be comparable to those currently charged for vessel documentation services.
- **Regulatory impact analysis:** AWO members have provided information on the size of the undocumented barge fleet and the cost of affixing a permanent marking to a tank or dry cargo barge to the contractor conducting the preliminary regulatory impact analysis for this rulemaking. We would be pleased to provide additional information as necessary to assist the Coast Guard in evaluating the economic and administrative impact of the proposed numbering system on the barge industry.

Thank you for the opportunity to comment. Enclosed is a postage-paid, self-addressed envelope. We would appreciate written confirmation that our comments have been received and will be considered in the development of a notice of proposed rulemaking.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer A. Kelly". The signature is written in black ink and is positioned above the printed name.

Jennifer A. Kelly